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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,958	01/25/2001	Hans Heid	(Z) 98017 P US	7016
7590	06/03/2005		EXAMINER	DEXTER, CLARK F
M. Robert Kestenbaum 11011 Bermuda Dunes NE Albuquerque, NM 87111			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/770,958	HEID, HANS	
Examiner		Art Unit	
Clark F. Dexter		3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 March 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 2-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 2-7 and 11-13 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

<ol style="list-style-type: none"> 1)<input type="checkbox"/> Notice of References Cited (PTO-892) 2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. 	<ol style="list-style-type: none"> 4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. 5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152) 6)<input type="checkbox"/> Other: _____.
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DETAILED ACTION

1. The amendment filed on March 10, 2005 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 4, 6, 7, 11 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over King, pn 5,784,936.

King discloses a knife holder (e.g., in prior art Figure 1) with every structural limitation of the claimed invention including a knife (e.g., 44, 48), a knife carrier (e.g., 46 and the structure to which 46 is mounted), and a blade guard comprising a plate (e.g., 40) that is arranged on the side of the knife carrier and is fully capable of being on the side of an operator.

In the alternative, if it is argued that King does not meet the limitation "which is on the side of the operator", it would have been obvious to one having ordinary skill in the

art to arrange the device disclosed in King in any variety of orientations for various known benefits including to correspond to design arrangements in a manufacturing line and/or plant, or to improve cutting conditions during cutting of some types of work pieces. For example, one having ordinary skill in the art would realize that the cutting device, *per se*, of King would operate equally well in several orientations, particularly rotated 90 degrees in either direction about an axis defining the path work piece. That is, the cutting device could be rotated 90 degrees with respect to the drawing and to the conveyor. The conveyor would obviously remain in its same orientation so that it could continue to receive and convey cut work pieces. Such a modification would provide various well known benefits including reducing the pressure in the cutting area, particularly due to the weight of the work piece on the abutting surface, to provide improved cutting conditions for some types of work pieces. Therefore, it would have been obvious to one having ordinary skill in the art to provide an orientation of the cutting device of King as claimed for the well known benefits including that described above.

Claim Rejections - 35 USC § 103

5. Claims 3, 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over King, pn 5,784,936.

King discloses a knife holder (e.g., in prior art Figure 1) with almost every structural limitation of the claimed invention as described above but lacks (a) the plate being transparent, and (b) the plate being coupled to a switch.

Regarding (a), the Examiner takes Official notice that it is old and well known in the art to make support and/or guide components from any one of various types of known materials including transparent materials. Transparent materials provide the obvious and well known benefits of being easily inspected for cleanliness and easily cleaned (e.g., glass), and also provides well known benefits including facilitating inspection of other parts of the machine (e.g., those below the component) to determine if cleaning or other maintenance is required. Therefore, it would have been obvious to one having ordinary skill in the art to make the plate of King from a transparent material for the well known benefits including those described above.

Regarding (b), the Examiner takes Official notice that switches as claimed are old and well known in the art and provide various known benefits including indicating the position of an adjustable component; or example, indicating whether the adjustable component has reached a position of significance (such as a "0" adjustment point, or a maximum point of adjustment such as a limit switch). Therefore, it would have been obvious to one having ordinary skill in the art to provide a switch on the device of King for the well known benefits including those described above; for example, to indicate to a user when a limit position of adjustment has been reached.

Response to Arguments

6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection. It is respectfully submitted that the added limitation, which is directed to the position of an operator which operator is not

part of the claimed invention, does not patentably distinguish the claimed invention over the prior art, and is at least an obvious modification as described above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can be reached Monday, Tuesday, Thursday and Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (571)272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Clark F. Dexter
Primary Examiner
Art Unit 3724

cf
May 31, 2005